

1 IN THE UNITED STATES DISTRICT COURT FOR MARYLAND

2 SOUTHERN DIVISION

3 -----X

4 BEYOND SYSTEMS, INC., :
5 Plaintiff, :
6 vs. : Case No: 8:08-cv-00921-PJM
7 WORLD AVENUE U.S.A., LLC, :
8 Defendant. :
9 -----X

10

11

12 Deposition of
13 TINA DEMPSEY-JONES
14 Washington, D.C.
15 Friday, March 12, 2010

16

17

18

19

20

21 Reported by: Stephany L. Jerome, RPR

22 JOB NO. 122726

1

2

3 March 12, 2010

4 10:20 a.m.

5

6

7

8 Deposition of Tina Dempsey-Jones, held at:

9

10 Greenberg & Traurig

11 2101 L Street, N.W., Suite 1000

12 Washington, D.C. 20037

13

14

15 Pursuant to notice, before Stephany L. Jerome, a

16 Notary Public in and for the District of Columbia.

17

18

19

20

21

22

3

1 APPEARANCES:

2 On behalf of the Plaintiff:

3 BY: STEPHEN H. RING, ESQ.

4 Law Offices of Stephen H. Ring, P.C.

5 506 Main Street, Suite 215

6 Gaithersburg, Maryland 20878

7 (301) 563-9249

8

9 On behalf of the Defendant:

10 BY: SANFORD M. SAUNDERS, JR., ESQ.

11 NICOLETA BURLACU, ESQ.

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 3 of 29

12 Greenberg Traurig, LLP
13 2101 L Street, N.W., Suite 1000
14 Washington, D.C. 20037
15 (202) 331-3130

16

17 On behalf of the Witness:

18 BY: ALEXANDER V. SHEKHTER, ESQ.
19 Assistant General Counsel, Verizon
20 1320 North Court House Road, 9th Floor
21 Arlington, Virginia 22201
22 (703) 351-3197

4

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19
20
21
22

5

1
2 C O N T E N T S

4 EXAMINATION OF TINA DEMPSEY-JONES BY:

5 PAGE

10
11 DEPOSITION EXHIBITS: (attached) FOR ID:

12 No. 1 Response to subpoena
13 No. 2 Verizon Online Terms of Service
14 for Verizon FIOS Internet Service
15 for Business

16 No. 3 E-mails from Paul Wagner
17 (confidential)

18 No. 4 Declaration of Paul A. Wagner
19 No. 5 Invoice from Beyond Systems, Inc.
20 No. 6 Verizon Internet Access Service
21 Terms of Service

6

1 P R O C E E D I N G S

2 Whereupon,

3 TINA DEMPSEY-JONES,

4 having been first duly sworn, was examined and

5 testified as follows:

6 EXAMINATION BY COUNSEL FOR THE DEFENDANT

7 BY MR. SAUNDERS:

8 Q Ms. Jones, I'll ask you to state your full

9 name for the record.

10 A Tina Dempsey-Jones.

11 Q And your address?

12 A 5601 Leon Street, Camp Springs, Maryland.

13 Q That's your home address?

14 A Home address, yes.

15 Q And your work address?

16 A 1320 North Court House Road, 6th Floor,

17 Arlington, Virginia.

18 Q By whom are you employed?

19 A Verizon.

20 Q Ms. Jones, my name's am Sandy Saunders. I

21 am counsel for World Avenue U.S.A. and several other

22 companies which are named as defendants in a case that

7

1 has been filed by Beyond Systems, Inc. Mr. Ring, the

2 gentleman sitting to your right is counsel for Beyond

3 Systems, Inc. World Avenue has noticed your

4 deposition today. I'll be asking you a series of

5 questions and then Mr. Ring will have the opportunity

6 to ask you questions as well when I'm finished. If

7 you don't understand any of my questions, then please

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 6 of 29

8 feel free to tell me you don't understand my question
9 and I will rephrase it. You control in that process.
10 If I ask you a question where your answer calls for
11 you to disclose conversations with your counsel, then
12 please don't answer that. And your counsel will
13 probably jump in, but if inadvertently I ask you a
14 question that calls for an answer based on your
15 conversations with counsel, then you should feel free
16 to tell me that or your counsel will jump in and tell
17 me that.

18 There will come points in time where
19 Mr. Ring may object to certain questions that I ask
20 during the deposition. This is in part a matter of
21 procedure for the deposition. Then after Mr. Ring
22 makes his record with his objection, then you can go
8

1 ahead and answer the question to the best of your
2 ability.

3 A Okay.

4 Q But it's important to let him finish
5 speaking because it gets difficult for the court
6 reporter if we all start speaking at the same time,
7 and it is amazing how often human beings do that until
8 you've had to transcribe tapes of conversations you
9 don't fully appreciate that.

10 Have you ever been deposed before?

11 A No.

12 Q So, as I said, if you don't understand, you
13 need some help -- if you need to take a break, by the
14 way, just say so and we can go off record with that.

15 Now let's go to the specifics of the
16 deposition. What position do you hold with Verizon?

17 A I'm senior marketing manager, product line
18 manager for medium business customers.

19 Q And how long have you been with Verizon?

20 A Since 1998.

21 Q And what were you prior positions with
22 Verizon?

9

1 A Offer management, so responsible for offers
2 and promotions as well as other marketing bundling
3 packaging, product marketing.

4 Q And in product marketing, do you work with
5 Verizon customers?

6 A Through the sales reps. I mean, I have some
7 but limited interaction with customers.

8 Q And can you tell us a little bit more about
9 your responsibilities in your current position?

10 A My current position is as product marketing
11 or product line management for high speed Internet and
12 FIOS. I am the subject matter expert for medium
13 business so I am responsible for maintaining the
14 product life cycle as well as training the sales
15 force, everything to make sure that the product is
16 promoted successfully to our medium business
17 customers.

18 Q And what's your educational background?

19 A I have a B.A. in business administration
20 from Mary Baldwin College.

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 8 of 29

21 Q I'm sorry from where?

22 A Mary Baldwin College in Staunton, Virginia.
10

1 Q Sure. Any other higher education?

2 A No.

3 Q Now, you mentioned that part of your
4 responsibilities as part of product line management is
5 Verizon's FIOS service?

6 A Correct.

7 Q And is that FIOS service for businesses?

8 A FIOS for business, correct, Internet and TV.

9 Q Can you describe what the Verizon FIOS
10 service for businesses is?

11 A FIOS Internet service for business is a
12 dedicated access connection to the Internet over fiber
13 available to small and medium business customers.

14 Q And what do you mean by dedicated access?

15 A It's always up, always available. You don't
16 dial in so it's a dedicated connection from the
17 customer's location.

18 Q And how long has Verizon FIOS for business
19 been available?

20 A I believe since 2005.

21 Q And who are the target businesses for
22 Verizon FIOS service?

11

1 A Targeted businesses for the Internet service
2 for business are small to medium business customers
3 with a single location.

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 9 of 29

4 MR. RING: Paul Wagner just came in.

5 BY MR. SAUNDERS:

6 Q And what types of businesses does Verizon
7 market Verizon FIOS to?

8 A Verizon markets FIOS to small to medium
9 business customers.

10 Q And how does a small to medium business
11 customer sign up for Verizon FIOS service?

12 A They can either order online or they can
13 order via telephone through a sales rep.

14 Q And what information does a business
15 customer need to provide to Verizon to get the FIOS
16 service for business?

17 A I would say the main thing is that they
18 would need to provide their location so the address as
19 well as the business name, contact name.

20 Q Now, does Verizon have terms of service for
21 Verizon FIOS service?

22 A Yes.

12

1 Q Does the business need to agree to those
2 terms of service?

3 A Yes.

4 Q Is it possible for a business to sign up
5 with Verizon FIOS without agreeing to the terms of
6 service?

7 A No. The terms of service have to be
8 accepted in order for the customer to have the
9 service.

10 Q Can the customer utilize Verizon FIOS for

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 10 of 29

11 business without agreeing to those terms of service?

12 A Usage is acceptance of the terms of service
13 as well.

14 Q Can you explain how that's the case?

15 A By a customer -- normally the way it works,
16 the customer would accept the terms of service online.
17 If they don't do that, then retaining and using the
18 software for more than 30 days constitutes acceptance.

19 Q Anything else constitute acceptance?

20 A No.

21 Q And are you familiar with the terms of
22 service for Verizon FIOS business?

13

1 A Somewhat, yes.

2 Q Can you describe your experience with the
3 terms for service?

4 A It's usually in terms of advising sales in
5 regards to what is included, and so I usually consult
6 the actual document in order to determine what's
7 included in the terms of service.

8 Q And you mentioned it's working with the
9 sales people?

10 A Working with sales people.

11 Q And are you familiar with how Verizon
12 implements the terms of service?

13 MR. SHEKHTER: Objection. The question is
14 ambiguous. Could you please restate?

15 BY MR. SAUNDERS:

16 Q Sure. Are there times where you answer

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 11 of 29

17 questions for the sales people about the terms of
18 service?

19 A Yes.

20 Q Now I'm going to ask the court reporter to
21 mark as Deposition Exhibit 1.

22

14

1 (Verizon Deposition Exhibit Number 1 was
2 marked for identification and attached to the
3 transcript.)

4 BY MR. SAUNDERS:

5 Q Ms. Jones, have you seen Verizon Exhibit 1
6 before?

7 A Yes.

8 Q And can you tell us what it is?

9 A A subpoena.

10 Q And were pages two and three of Verizon
11 Exhibit 1 information produced in response to the
12 subpoena?

13 A Yes.

14 Q Now, looking at page two --

15 MR. SAUNDERS: And let me for the record,

16 Verizon Exhibit 1 consists of pages marked WAUSA 00135
17 through 137.

18 BY MR. SAUNDERS:

19 Q Looking at the second page, which is
20 numbered at the bottom 136, can you tell us what this
21 page shows? And if you have to carry over to the next
22 page, that's okay.

15

1 A Okay. It shows the account number, business
2 name, customer name, address, phone number, e-mail,
3 the payment method, the service address, shipping
4 address.

5 Q For what?

6 A For Beyond Systems.

7 Q And for what type of account does it show?

8 A Business account.

9 Q Is this a FIOS business account?

10 A Yes.

11 Q Now, who is the customer that's reflected
12 here?

13 A Beyond Systems.

14 Q It says -- I'm sorry, it says Beyond Systems
15 next to business name?

16 A Yes. And the point of contact, customer
17 name, William Wagner.

18 Q So who is the customer?

19 MR. RING: Objection. Asked and answered.

20 MR. SAUNDERS: Go ahead and answer.

21 MR. RING: Asked twice.

22 THE WITNESS: Beyond Systems.

16

1 BY MR. SAUNDERS:

2 Q And what was the creation date of the
3 account?

4 A December 21st, 2005.

5 Q And what is the account address?

6 MR. RING: Objection. Speaks for itself.

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 13 of 29

7 Go ahead.

8 THE WITNESS: 1612 Sherwood Road, Silver
9 Spring, Maryland 20902.

10 BY MR. SAUNDERS:

11 Q Now, on the page about the information about
12 the Verizon FIOS for business account does the name
13 Paul Wagner appear?

14 MR. RING: Objection. Same. Speaks for
15 itself.

16 BY MR. SAUNDERS:

17 Q Go ahead, Ms. Jones. Does the name Paul
18 Wagner appear?

19 A On which page, on page 136.

20 Q Correct. As to the FIOS account.

21 A No, it does not.

22 Q Does the name Paul Wagner appear anywhere
17

1 else in Exhibit 1?

2 A Yes. On page 137.

3 Q And what's reflected on page 137?

4 A An account number, creation date, customer
5 name, address, telephone number, e-mail, payment
6 method.

7 Q And is that the same account as reflected on
8 page 136?

9 A No, it's not.

10 MR. RING: Note my objection. I think she
11 was cut off. You asked her what was on a page. She
12 started to go through the page, and then she only got

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 14 of 29

13 about halfway through and then she was cut off.

14 MR. SAUNDERS: I'm sorry.

15 MR. RING: If actually what you wanted her
16 to do is read the page, that's what she was doing.

17 MR. SAUNDERS: I thought the witness was
18 done.

19 BY MR. SAUNDERS:

20 Q Ms. Jones, is there anything else you wanted
21 to say about second page?

22 A I can read the entire page.

18

1 Q No. That's okay. Now, what type of
2 account -- because now I've lost my train of thought,
3 I apologize if you answered this.

4 What type of account is reflected on page
5 137, the last page.

6 MR. RING: Objection. Ambiguous. Go ahead.

7 THE WITNESS: It appears to be a consumer
8 account.

9 BY MR. SAUNDERS:

10 Q And is that a different type of account from
11 the FIOS account that is reflected on the previous
12 page?

13 A Yes.

14 Q What's a consumer account?

15 A Consumer is for a residential customer,
16 nonbusiness.

17 Q And who is the customer for the consumer
18 account that's reflected on page 137?

19 A Paul Wagner.

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 15 of 29

20 Q What's the address for Mr. Wagner?

21 A 1837 R Street, Northwest, Washington, D.C.

22 20009.

19

1 Q And there are some phone numbers reflected
2 on the consumer account. Do you see those on page
3 137?

4 A Yes.

5 Q For the consumer account those numbers have
6 a 202 Area Code?

7 A Correct.

8 Q Do you know from what jurisdiction 202 is
9 the Area Code?

10 A Washington, D.C.

11 Q Now, on the FIOS account there is a
12 telephone number that's listed. Do you see that on
13 page 136?

14 A Yes.

15 Q And that has an Area Code of 301?

16 A Yes.

17 Q Do you know what area 301 is the Area Code
18 for?

19 A Maryland.

20 Q Now, for the FIOS account, do you know how
21 this customer signed up? You mentioned before that
22 customers can sign up either by phone or online?

20

1 A I believe this customer signed up over the
2 phone because in 2005 we didn't have online ordering.

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 16 of 29

3 Q Now, does Verizon on its own ever conduct
4 research to fill in customer information for its
5 accounts?

6 A No.

7 Q Is it Verizon policy to do a reverse phone
8 or address lookup to identify customer names for
9 accounts?

10 A No.

11 Q Are you aware of Verizon ever engaging in a
12 reverse phone/address lookup to fill in account
13 information?

14 A No.

15 Q Now, from Verizon Exhibit 1 can you tell
16 what service is now being provided to the FIOS
17 account?

18 A I'm not sure I understand what you're asking
19 me.

20 Q I'm asking you for the account that's
21 reflected on page 136 --

22 A Okay.

21

1 Q That's an active account?

2 A Right.

3 Q And can you tell us precisely what service
4 is being provided?

5 A It looks like Verizon FIOS for business,
6 static.

7 Q Now, is this a business or a residential
8 account?

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 17 of 29

9 A Business.

10 Q Now, what types of information are generally
11 provided with a Verizon FIOS account?

12 A I don't understand what you're asking me.

13 Information for?

14 Q What does a customer get with the Verizon
15 FIOS account?

16 A Okay. Well, depending on the service the
17 customer signs up for, dynamic or static, the customer
18 would get with static one static IP address, either
19 the choice of domain name, e-mail or dot net e-mail
20 boxes, Web space and one license for Internet Security
21 Suite.

22 Q And does that include an IP address?

22

1 A One IP address with the static product.

2 Q And static is what we're talking about was
3 reflected for the FIOS service in Exhibit 1?

4 A Correct.

5 Q You said one IP address?

6 A One IP address. Additional IP addresses can
7 be purchased.

8 Q Do you know how many IP addresses were
9 purchased with the FIOS account that's reflected on
10 Verizon Exhibit 1?

11 A I believe it was 13.

12 Q And is there software provided with Verizon
13 FIOS?

14 A Yes.

15 Q What type of software is provided?

16 A Internet access software.

17 Q Anything else?

18 A The one license for the Internet Security
19 Suite.

20 MR. SAUNDERS: We'll mark this as Verizon
21 Exhibit 2.

22

23

1 (Verizon Deposition Exhibit Number 2 was
2 marked for identification and attached to the
3 transcript.)

4 BY MR. SAUNDERS:

5 Q Ms. Jones, do you recognize what's been
6 marked as Verizon Exhibit 2?

7 A Yes. The Verizon online terms of service
8 for FIOS Internet for business.

9 MR. SAUNDERS: And, for the record, what
10 we've handed the witness marked as Verizon Exhibit 2
11 is a document starting with pages marked WAUSA dash
12 3rd Party dash 02228 through 02235.

13 I'm sorry, could you read the witness'
14 answer back to me.

15 (The Reporter read the last answer.)

16 MR. SAUNDERS: Thank you.

17 BY MR. SAUNDERS:

18 Q And do you know when these terms of service
19 went into place or how long they've been in place?

20 A Since 2005.

21 Q Thank you. And are these the terms of

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 19 of 29

22 service that would govern the FIOS account that was
24

1 identified in Verizon Exhibit 1?

2 A Yes.

3 Q So were these the terms of service that
4 governed the Verizon FIOS account identified in
5 Exhibit 1 when the account was open?

6 A I'm sorry, repeat that one more time.

7 Q Just to be clear, Exhibit 2, are these the
8 terms of service that governed the FIOS account in
9 Exhibit 1 at the time that account was opened?

10 A Yes.

11 Q And do these terms of service still apply to
12 that account?

13 A Yes.

14 Q Now for Exhibit 2, for the terms of service
15 of the Verizon FIOS account, who are the parties to
16 the terms of service?

17 A Verizon and the customer.

18 Q And do the terms of service specify the
19 entity that provides FIOS business service in
20 Maryland?

21 A Yes.

22 Q And who is that?

25

1 A Verizon Online Maryland.

2 Q And on the last page of Exhibit 2 there's a
3 reference down towards the bottom. See where it says,
4 "Services in Maryland provided by Verizon-Maryland,

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 20 of 29

5 LLC"?

6 A Yes.

7 Q That's the same Verizon that's being
8 referred to on page 1?

9 A It's an affiliate of Verizon Internet
10 Services.

11 Q Now, do the terms OF service provide how
12 they are to be accepted by the business customer?

13 A Yes.

14 Q And how is that?

15 A Either online -- online or by use of service
16 or retention of the software for more than 30 days.

17 Q And where does it say that?

18 A In the first paragraph underlined.

19 Q Now, if you'll turn to page five, paragraph
20 24, does paragraph 24 address any prior agreements or
21 representations made about the service?

22 A Yes.

26

1 Q And what does it provide?

2 A It says that this agreement supersedes any
3 proposals or any agreements that may have been
4 provided prior to acceptance of this agreement.

5 Q And does it account for how changes can be
6 paid or modifications to the agreement can be made?

7 A No.

8 Q Take a look at the --

9 A Yes.

10 Q And what does it say?

11 A "Any changes to the agreement or any

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 21 of 29

12 additional or different terms of the purchase order,
13 acknowledgment or other documents will not be
14 effective unless expressly agreed in writing by us."

15 Q Thank you. Now, does Exhibit 2 define the
16 services that are being provided?

17 A Yes.

18 Q And where does it do that?

19 A In number one.

20 Q That's the paragraph --

21 A Services.

22 Q Thank you.

27

1 MR. RING: You're saying paragraph one?

2 MR. SAUNDERS: Correct with the -- would
3 that be an Arabic number? Yes.

4 MR. RING: On page one?

5 MR. SAUNDERS: Yes.

6 MR. RING: I was on page five. That's the
7 only reason, I just wanted to jump. Okay.

8 MR. SAUNDERS: I have no problem with making
9 sure the record's clear.

10 BY MR. SAUNDERS:

11 Q And how is service defined?

12 MR. RING: Note my objection to the extent
13 the question is asking the witness to recite what's
14 already in the document.

15 BY MR. SAUNDERS:

16 Q You can go ahead and answer.

17 A "The service is defined as Verizon FIOS

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 22 of 29

18 Internet Service for business, Verizon Business E-mail
19 Service, Dial-Up Mobility Broadband Internet Service,
20 including all software as defined in paragraph nine
21 below and such other products or services as you may
22 subscribe to with Verizon. The service shall also
28

1 include any software or hardware that we provide you
2 in connection with the Service to which you have
3 subscribed."

4 Q Now, is the business customer under Verizon
5 Exhibit 2 permitted to resell the Verizon FIOS
6 business services to others?

7 A No.

8 Q Is there a term of service that relates to
9 that?

10 A Yes.

11 Q And what is that?

12 A Number six.

13 Q That would be on page --

14 A Page two.

15 Q Page two also Bates number 02229?

16 A "Your Responsibilities."

17 Q And can you read the applicable provision of
18 paragraph six that applies to this issue of resale?

19 A "You may not resell the service or access to
20 service directly or indirectly to third parties
21 without our written agreement."

22 Q And what happens if they do, if the

29

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 23 of 29

1 customer does resell?

2 A And Verizon is made aware?

3 Q Yes.

4 A Verizon will take steps to make corrective
5 action, which can include termination.

6 Q Now, what's your understanding of what it
7 means to resell the FIOS service being provided under
8 the terms of service marked as Verizon Exhibit 2?

9 A To provide the service to a third party
10 other than the customer.

11 Q And what's your understanding of what it
12 means to resell access to the service?

13 A To provide Internet access to a third party.

14 Q And to the extent there's a reference here
15 to reselling the service or access directly or
16 indirectly, what's your understanding of what that
17 means?

18 A To charge -- or to sell for a price or to
19 provide to a third party without a price.

20 Q So under the terms of service, is the
21 Verizon FIOS business subscriber permitted to turn
22 around and provide third parties access to the

30

1 Internet for a fee?

2 A No.

3 Q Under these terms of services, is the
4 business subscriber for Verizon FIOS permitted to host
5 Internet services for customers using the Verizon FIOS
6 Internet connection?

7 A No.

8 MR. RING: Note my objection because the
9 question asks for an interpretation -- reciting
10 language that's already in the document itself and, B,
11 asks, I believe, for a legal opinion or an
12 interpretation, and the witness has not been qualified
13 to render a legal opinion. That's my objection. I'd
14 like to have a continuing objection to similar
15 questions, if I may.

16 MR. SAUNDERS: That's fine.

17 BY MR. SAUNDERS:

18 Q And in that when we're talking about -- in
19 your answer that the customer, the business customer
20 under Verizon Exhibit 2 is not allowed to host
21 Internet services for a third party, does that include
22 Internet service such as providing e-mail services for

31

1 a third party customer?

2 A Yes.

3 Q Now, can a business subscriber under Verizon
4 Exhibit 2 charge third parties for handling there
5 electronic e-mail?

6 A I'm sorry, say it one more time.

7 Q Can a business subscriber under Verizon
8 Exhibit 2 charge third parties for handling their
9 e-mail?

10 A No.

11 Q Now, does it make any difference if that
12 Verizon FIOS business subscriber only charges some
13 people for providing access to the Internet and

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 25 of 29

14 doesn't charge others?

15 A No.

16 Q Because it would still be prohibited under
17 the terms of service?

18 A Correct.

19 Q Now, can a Verizon business subscriber host
20 the domain names for other third-party customers using
21 the Verizon FIOS service?

22 A No.

32

1 Q Can a Verizon business FIOS subscriber use
2 the Verizon FIOS service to host hundreds of domains
3 for third parties using the Verizon FIOS service?

4 MR. RING: Objection.

5 THE WITNESS: No.

6 BY MR. SAUNDERS:

7 Q Can a Verizon FIOS business subscriber
8 assign one of the Verizon IP addresses to a third
9 party?

10 A No.

11 Q And does it matter whether they assign that
12 IP address without taking a fee?

13 A It does not matter.

14 Q Whether it's for a fee or not?

15 A It cannot. Right. It cannot be done.

16 Q Thank you. Can a customer use Verizon FIOS
17 to conduct business as an Internet service provider?

18 A No.

19 Q Does it matter whether the Verizon FIOS
20 business subscriber acting as an Internet service

21 provider charges a fee for Internet access?

22 A No.

33

1 Q Do you know what a wireless hot spot is?

2 A Yes.

3 Q Can you give us an example?

4 A It's a location where customers can connect
5 to the Internet without a hard-wired connection.

6 Q Is a Verizon FIOS business subscriber
7 permitted to set up a wireless hot spot for the
8 general public to access the Internet using Verizon
9 FIOS?

10 A No.

11 Q So a Verizon FIOS business subscriber could
12 not charge a fee to third parties for accessing a
13 wireless hot spot?

14 MR. RING: Objection.

15 THE WITNESS: No.

16 BY MR. SAUNDERS:

17 Q Now directing your attention to paragraph
18 25, and you see where paragraph 25 -- would you go
19 ahead and read into the record the first sentences of
20 paragraph 25?

21 MR. RING: Objection.

22

34

1 BY MR. SAUNDERS:

2 Q Go ahead.

3 A "Service Description: Verizon FIOS Internet

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 27 of 29

4 Service provides you dedicated access to the Internet
5 over a fiber optic transmission facility. You may
6 connect multiple computers/devices within a single
7 office location to your service router to access the
8 service, but only through a single Verizon FIOS
9 Internet service account and a single IP address
10 obtained from Verizon.?

11 Q Thank you. Is it possible to connect
12 multiple computer devices within multiple offices to
13 the Verizon FIOS service?

14 A No.

15 Q If a Verizon business subscriber connects a
16 server at the Verizon FIOS location to another server
17 at another location to provide Internet access to the
18 third party, is that permissible?

19 A No.

20 Q And if a Verizon FIOS business subscriber
21 can't do that, what is FIOS intended for?

22 A It's intended for single use at a single
35

1 location.

2 Q Now, can you hook up multiple computers at
3 one location?

4 A Yes.

5 Q But each office has to have their own
6 separate FIOS connection?

7 A Each location.

8 Q So, for example, Greenberg Traurig, which
9 has approximately 30 offices around the country, we

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 28 of 29

10 couldn't link all 30 offices through one Verizon FIOS
11 account?

12 A That's correct.

13 Q Now, for this office where we have 100
14 lawyers, we could have 100 computers linked to one
15 account?

16 A Correct.

17 Q But we would violate the terms and
18 conditions once we brought in another office?

19 A Correct.

20 MR. SAUNDERS: Let's mark this as 3.

21 (Verizon Deposition Exhibit Number 3 was
22 marked for identification and attached to the

36

1 transcript.)

2 MR. SAUNDERS: And, Ms. Jones, let me know
3 when you've had a chance to look at what we've marked
4 as Verizon Exhibit 3. direct your attention Street --
5 Bayer with me one second.

6 And, for the record, this is a document with
7 the Bates numbers BSI dash K0003295 through 3297. And
8 this is one of those documents that's marked
9 confidential and will be covered by the
10 confidentiality agreement that we'll go through at the
11 end of your deposition.

12 BY MR. SAUNDERS:

13 Q Now, Ms. Jones, let me direct your
14 attention -- bear with me one second.

15 Ms. Jones, if you'll look at the second page
16 of Verizon Exhibit 3, you'll see at the bottom there

Case 8:08-cv-00921-PJM Document 576-2 Filed 12/17/10 Page 29 of 29

17 is an e-mail transmission dated Thursday, 12th of
18 January 2006. Do you see that?

19 A Yes.

20 Q And then if you continue onto the third
21 page, you'll see the body of that e-mail transmission?

22 A Yes.

37

1 Q And do you see there a reference to
2 safemailbox dot com and dot net?

3 A Yes.

4 Q And it's an e-mail address that appears to
5 be assigned to G3 Mac?

6 A Yes.

7 Q Now, if this IP address, safemailbox dot com
8 and dot net, if that is assigned to a Web site that
9 provides e-mail access to third parties, would that be
10 a violation of the Verizon terms and services?

11 MR. RING: Objection.

12 THE WITNESS: Yes.

13 BY MR. SAUNDERS:

14 Q Now, the next e-mail, if you go to where it
15 says there's an e-mail for 2008, which starts on the
16 first page. You see that?

17 A Yes.

18 Q Now, there who does it identify as the
19 customer in that e-mail for the Verizon FIOS service?

20 MR. RING: Objection.

21 THE WITNESS: I'm sorry, are you referring
22 to October --

38